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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/535,001

05/12/2005

John Aubrey Allen

P/63753

2044

156 7590 08/09/2007  
KIRSCHSTEIN, OTTINGER, ISRAEL  
& SCHIFFMILLER, P.C.  
489 FIFTH AVENUE  
NEW YORK, NY 10017

EXAMINER

TRAN, PABLO N

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

08/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/535,001

Applicant(s)

ALLEN, JOHN AUBREY

Examiner

Pablo N. Tran

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 1-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-30, 32-42 and 44-48 is/are rejected.
- 7) ☒ Claim(s) 31 and 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/12/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 25-30, 32-34, 37-42, and 44-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Seddigh et al. (6,973,035).

As per claims 25 and 37, Seddigh et al. disclose a method of attempting to construct a path through a packet network from a source host address (fig. 3/no. 310, fig. 10/no. 1010) to a destination host address (fig. 3/no. 320, fig. 10/no. 1020), wherein signaling to an admission control device (fig. 3/no. 330a, fig. 10/no. 1030a) for controlling admission to a section of the path, and returning information on a range of host addresses controlled by the admission control device (fig. 4, fig. 5-9, col. 3/ln. 23-col. 4/ln. 29).

As per claims 26 and 38, Seddigh et al. disclose the claimed invention (fig. 3/no. 340a, 330b...., fig. 5-9, col. 3/ln. 23-col. 4/ln. 29).

As per claims 27 and 39, Seddigh et al. disclose the claimed invention (fig. 3, col. 3/ln. 23-col. 4/ln. 29).

As per claims 28 and 40, Seddigh et al. disclose the claimed invention (col. 3/ln. 23-col. 4/ln. 29).

As per claims 29 and 41, Seddigh et al. disclose the claimed invention (fig. 4, fig. 5-9, col. 3/ln. 23-col. 4/ln. 29).

As per claims 30 and 42, Seddigh et al. disclose the claimed invention (fig. 4, fig. 5-9, col. 3/ln. 23-col. 4/ln. 29).

As per claims 32 and 44, Seddigh et al. disclose the claimed invention (fig. 4, fig. 5-9, col. 3/ln. 23-col. 4/ln. 29).

As per claims 33 and 45, Seddigh et al. disclose the claimed invention (fig. 4, fig. 5-9, col. 3/ln. 23-col. 4/ln. 29).

As per claims 34 and 46, Seddigh et al. disclose the claimed invention (fig. 10, fig. 14-15, col. 9/ln. 12-col. 10/ln. 37).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 35-36 and 47-48 rejected under 35 U.S.C. 103(a) as being unpatentable over Seddigh et al. (6,973,035).

As per claims 35-36 and 47-48, Seddigh et al. disclose such step of hopping from admission control devices but not specifically a rate as claimed. However, such is notoriously well known in the art that the examiner takes Official Notice of such. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention for Seddigh et al. to utilize such data rate, well known, in order to provide an appropriate delay for traffic flow to propagate through the mesh route.

#### ***Allowable Subject Matter***

5. Claims 31 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (571)272-7898. The examiner normal hours are 9:30 -5:00 (Monday-Friday). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571)272-7899. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) System. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.  
For more information about the PAIR system, see <http://pair-directauspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**PABLO N. TRAN**  
**PRIMARY EXAMINER**

July 30, 2007

A handwritten signature in black ink, appearing to be 'P. Tran', with a long horizontal stroke extending to the right.

AU2618